

REMARKSStatus of Claims

Claims 1, 5-14, and 21-29 are pending in the application and stand rejected. Although no amendments are made in this paper, a Listing of Claims is provided for the Examiner's convenience.

Claim Rejections**35 U.S.C. §103**

The Examiner rejects claims 1, 5-10, 13, 14, 21-26, and 29 as unpatentable under 35 U.S.C. §103 over U.S. Patent No. 6,511,672 ("Tan") in view of U.S. Patent No. 3,647,492 ("Chapman") and rejects claims 11-12 and 27-28 over the foregoing combination further in view of U.S. Patent No. 5,800,816 ("Brieva"). Briefly, the Examiner cites Chapman as disclosing a "cosmetic product which comprises bismuth oxychloride to which particles of the finely divided pigment are intimately bound by means of a binder such as calcium stearate." The Examiner cites Tan for the reasons already of record and alleges that it "would have been obvious to a person or ordinary skill in the art at the time of the invention to employ bismuth oxychloride bonded to a colorant with calcium stearate as the second platelet [of Tan]" and contends that there would have been a "reasonable expectation of success of obtaining a composition which matches the natural color of the skin on blending with the first platelet as taught by Tan et al." Applicants traverse this rejection.

The present claims require "a pearlescent component" which (i) comprises a bismuth oxychloride-containing pearlescent ingredient bonded to a colorant with calcium stearate, and (ii) matches in shade a natural skin tone benchmark shade. The deficiency of the rejection is made clear from the fact that the Examiner acknowledges that it is not Tan's "second platelet" that matches skin tone, but rather it is the "first platelet, and second platelet, which together match the natural color of the skin . . ." (OA, p. 3) (emphasis in original). Therefore, even assuming for the sake of argument, that one skilled in the art would have been motivated to incorporate Chapman's "bismuth oxychloride to which particles of the finely divided pigment are intimately bound by means of a binder such as calcium stearate" into Tan's compositions as

the "second platelet," one still would not arrive at the claimed invention because (i) Chapman does not teach or suggest a pearlescent component shade-matched to skin tone, and (ii) Tan matches the mixture of the "first platelet" and "second platelet" to skin tone -- not the individual platelets. There is simply nothing in the teachings of Tan and Chapman, whether taken individually or in combination, that would teach or suggest the use of a pearlescent component having the claimed features. Applicants respectfully submit that withdrawal of the rejections under § 103 is warranted.

In view of the foregoing, Applicants submit that independent claims 1 and 14 fully distinguish over the cited combination of reference and respectfully request reconsideration of all rejections. Applicants submit that the dependent claims are patentable for at least the same reasons but reserve the right to separately address the patentability of those claims, if necessary, in the future.

### CONCLUSION

Applicants respectfully submit that the instant application is in condition for allowance. Entry of the amendments and an action passing this case to issue is therefore respectfully requested. In the event that a telephone conference would facilitate examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,

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